

APPENDIX 6—LAND EXCHANGE, ACQUISITION, AND DISPOSAL CRITERIA

DISPOSAL CRITERIA

The Federal Land Policy and Management Act of 1976 (FLPMA) provides for retention of the public lands in federal ownership and management by Bureau of Land Management (BLM) for multiple use and sustained yield of the lands and resources, with environmental integrity. Public lands may be transferred from BLM to other federal agencies for management. Disposal by sale, exchange, or Recreation and Public Purpose (R&PP) Act patent remains an option if such an action will serve an important objective and have a public benefit.

Prior to any disposal, a site-specific analysis must determine that the lands considered contain no significant wildlife, recreation, or other resource values, the loss of which could not be mitigated; have no overriding public values; and represent no substantial public investments. Disposal must serve the public interest. Exchange will be the priority method for disposals.

Lands will not be considered for disposal if they are allocated for a specific use, even though they meet the general disposal criteria.

Exchanges

See Land Exchange Criteria below.

Sales

Public land sale proposals are the result of either a BLM initiative or in response to expressed public interest or need. Lands to be considered for disposal, at a minimum, must meet the following criteria as outlined in Section 203 of the FLPMA:

They are difficult and uneconomical to manage, and are not suitable for management by another federal department or agency.

Disposal would serve important public objectives, including but not limited to, community expansion or economic development, that could not be achieved prudently or feasibly on land other than public lands and that outweigh other public objectives or values.

The tract was acquired for a specific purpose and is no longer required for that purpose or any other federal purpose.

Sales and Exchanges Involving Wetlands

BLM policy is to retain wetlands in federal ownership unless federal, state, public, and private institutions and parties have demonstrated the ability to maintain, restore, and protect wetlands and riparian habitats on a continuous basis (BLM Manual 6740). Sales and exchanges may be authorized when—

The tract of public wetlands is either so small or remote that it is uneconomical to manage.

The tract of public wetlands is not suitable for management by another federal agency.

The patent contains restrictions of uses as prohibited by identified federal, state, or local wetlands regulations.

The patent contains restrictions and conditions that ensure the patentee can maintain, restore, and protect the wetlands on a continuous basis.

Recreation and Public Purposes Lease and Patent

The objective of the R&PP Act is to meet the needs of state and local governmental agencies and other qualified organizations for public lands required for recreational and public purposes. Use of the R&PP Act protects public values in the land through its reversionary provisions and helps qualified entities obtain the more liberal pricing authorized under the Act.

Public lands shall be conveyed or leased only for an established or definitely proposed project for which there is a reasonable timetable of development and satisfactory development and management plans. No more land than is reasonably necessary for the proposed use shall be conveyed.

Desert Land Entries

The purpose of the Desert Land Law is to permit the reclamation, by irrigation, of arid public land through individual effort and private capital.

Lands that, without artificial irrigation, will not produce any reasonably remunerative agricultural crop by the usual means or methods of cultivation may be considered for a desert land entry. The lands must be untimbered, surveyed, unreserved, and unappropriated. Tracts need not be contiguous, but shall be sufficiently close to each other that they can be managed satisfactorily as an economic unit.

The proposed crop may include any agricultural product to which the land under consideration is generally adapted and that would return a fair reward for the expense of producing it.

All Desert Land Entry applications will be coordinated with the Wyoming State Engineer and the Soil Conservation Service.

ACQUISITION CRITERIA

Acquisition of lands will be considered to facilitate various resource management objectives and to acquire lands with high resource values.

The preferred method for acquisition will be through exchange.

Acquisitions, including easements, can be completed through exchange, Land and Water Conservation Funds (LWCF) purchases or donations.

Acquisitions of private lands will only be pursued with willing landowners.

LAND EXCHANGE CRITERIA

Land Exchange Laws, Regulations, and Policy

The Federal Land Policy and Management Act

In our nation's history, federal lands have been used as a form of payment when the nation was short of cash, to promote settlement of western lands, and to promote resource development policies. Up until the mid-twentieth century, the ultimate goal for federal lands administered by BLM (i.e., public lands) was to transfer them to private ownership.

The FLPMA, passed in 1976, defines public lands as “. . . any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except— (1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts, and Eskimos.” The FLPMA marked a change in federal policy toward the public lands. In the Act, Congress declared that it was the policy of the United States that—

The public lands be retained in Federal ownership, unless as a result of the land use planning procedure . . . it is determined that disposal of a particular parcel will serve the national interest (43 USC 1701, Sec. 102(a)(1)). Uniform procedures for any disposal of public land, acquisition of nonfederal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be considered with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposal in excess of a specified acreage (43 CFR 1701, Sec. 102(a)(10)).

Section 206 of FLPMA further refined Congress' intention about land exchanges.

A tract of public land or interests therein may be disposed of by exchange . . . [when it is determined] that the public interest will be well served by making that exchange: Provided, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the nonfederal lands or interests and the public objectives they could serve if acquired.

Federal law prohibits exchange of public land in one state for private land in another, unless authorized by an act of Congress. Exchanges are to be of equal value, based on a fair market appraisal, and do not have to be of equal acreage. In other words, exchanges are made on a value-for-value basis rather than an acre-for-acre basis. Furthermore, land exchanges are a discretionary BLM action. BLM is not obligated to process every proposal it receives, even if the proposal has some merit. BLM evaluates exchange proposals in light of existing workloads, funding, and other program priorities when deciding to pursue a land exchange proposal.

Bureau of Land Management Exchange Policy

BLM interpreted congressional intent in FLPMA and established 14 general land exchange principles in BLM Manual 2200.06 A (1984). These 14 principles set forth general BLM policy for the exchange of

public lands or interest. They represent a commitment by BLM to implement the land exchange policies of FLPMA, consistent with BLM's other statutory obligations. The complete text of all 14 principles is presented in Attachment A.

The BLM Wyoming State Office issued a public land exchange and sale policy for Wyoming in May 1996 (WY-IM-96-067). The Wyoming BLM policy enlarges on the concept of public interest from section 206 of the FLPMA stating

All exchange proposals must provide significant public benefits. If an exchange proposal doesn't result in public access, in the acquisition of critical wildlife habitat, in improved management, or in the acquisition of some other significant resource value, the exchange proposal will not be pursued.

In summary, public land exchanges in Wyoming must

- Serve the national interest
- Meet public needs
- Provide significant public benefits.

Land exchanges may further one of the following purposes—

- Acquisition of private holdings in federal conservation areas
- Consolidation or unification of surface and subsurface estates
- Consolidation of ownership and boundary changes to form more logical and efficient management areas.

Federal Land Exchange Facilitation Act

This Federal Land Exchange Facilitation Act (FLEFA) was passed in August 1988, and final regulations were published in November 1993. These regulations are process-oriented procedures and do not change basic federal or BLM policy toward acceptable exchange proposals.

Resource Management Plans

The resource and land use management decisions in BLM resource management plans (RMP) are developed to allocate appropriate resource and land uses for the public lands. RMP decisions also establish practices to manage and protect public lands and resources, and they may identify lands suitable for consideration for disposal or acquisition. Public land users contribute to the development of RMPs by identifying problems, concerns, and issues involving the public lands in the planning areas; BLM ensures that the environmental analyses for the RMPs and the RMP decisions are responsive to these issues and concerns, to the extent allowed by law. RMP decisions must also consider and be consistent with state and local government land use plans, to the extent allowed by law.

Historical Context of the Great Divide RMP

RMPs are issue-driven documents. That is, public comment and BLM staff identify the public land and resource use problems, concerns, and issues that will be addressed in developing the RMP. Thus, RMPs strongly reflect the concerns in existence when they are prepared. Data were gathered for the Environmental Impact Statement (EIS) for the Great Divide RMP (Medicine Bow-Divide RMP Draft and Final EISs) in 1984–86. The Final EIS was issued in February 1987, and the Record of Decision (ROD) for the Great Divide RMP was signed in November 1990.

This period marked the conclusion of the Asset Management Program. This initiative sought to dispose of unneeded or unused federal assets (including sale of federal lands). Proceeds from these sales were intended to reduce the national debt and agency operating costs. The program ended in 1986 after only a small amount of federal land was disposed of. In the Great Divide Resource Area (GDRA), 160 acres in Laramie County were sold. Another factor influencing the land tenure issue (sales and exchanges) in the RMP was the mineral industry “bust” in 1980–1982. With a decline in industry operations, population declined. The Carbon County population declined from 22,000 in 1980 to approximately 16,000 in 1984. A declining economy and reduced land values contributed to a reduced interest in federal land exchanges or sales at that time.

Great Divide RMP Decisions

The Great Divide RMP addressed the land tenure issue within the context of the above circumstances and interests. The selections below from the RMP Draft EIS provide a clear summary of the intent of the land tenure decisions in the RMP.

The BLM’s management programs are affected by the broken landownership pattern in portions of the planning area. Implementing management plans on scattered lands is difficult because management practices on surrounding private lands tend to influence land use on public lands. Most of the small parcels lack legal public access, and unauthorized use is common. Often the costs of detecting and terminating trespass, managing grazing use, and processing rights-of-way and other applications for land use exceed the monetary returns from such uses. Landownership adjustments present opportunities to improve this situation. Such adjustments can be made through sale or exchange.

Exchanges serve several purposes, among them consolidation of landownership to facilitate resource management. Exchanges also can help in the accomplishment of resource management programs by enabling the BLM to acquire land with high public resource values.

Cities and towns in the planning area may need to acquire land for expansion purposes. These include Baggs, Bairoil, Creston Junction, Rawlins, Red Desert, and Wamsutter. Bairoil’s needs are critical because public land is conflicting with the town’s orderly expansion. The growing community is surrounded by “blocked” public land. Landownership adjustments present an opportunity to address this problem.

An easement acquisition program in the checkerboard would provide access only to public lands within, at most, one mile of the particular road acquired. However, there are opportunities in the planning area for acquisition of public access to areas that could meet important resource management objectives. Acquisition of easements can be accomplished through either the exchange program or the access program (p. 109–110).

The Great Divide RMP identifies approximately 66,000 acres as “available for consideration for disposal” by employing the “isolated, difficult or expensive to manage, or needed-for community expansion” disposal criteria in the FLPMA. These lands are specifically identified within the RMP. They comprise all the public lands in Laramie County, most of the public lands in southern Albany County, and selected parcels around the communities of Baggs, Bairoil, Creston Junction, Rawlins, Red Desert, Saratoga, and Wamsutter. No other specific, potential public land disposal areas are identified in the RMP. It should also be noted that the inventory of public lands that meet the FLPMA disposal criteria was not completed for the entire RMP planning area. The RMP will be updated to include wording to clarify that these lands are simply those that were identified during the planning effort as meeting the FLPMA disposal criteria, but no RMP decision has been made to the effect that they will be disposed of or that they are the only

public lands in the planning area that may be considered for disposal. The RMP does state, “Proposals for disposal of lands not identified as meeting the FLPMA criteria will be considered if they are consistent with the objectives of the RMP” (p. 15). The RMP also states, “The preferred method of disposal or acquisition of lands by BLM will be through exchanges” (p. 15).

The RMP does not identify land acquisition areas but does identify areas needing improved access.

The RMP Decisions in Current Context

Land ownership adjustment was not a primary issue during development of the Great Divide RMP and is addressed in the RMP only in a narrow context. Consequently, there is little guidance in the RMP regarding how land exchanges should be pursued or what priority they should receive.

The intent of certain phrases used in the RMP decisions is unclear when applied to current land exchange proposals. The following is the clarification of these terms in relation to exchanges.

The phrase to “**protect, maintain or improve**” is applied to a variety of resource decisions in the RMP, for example, “maintain or improve . . . high priority standard habitat sites” or “protect, maintain and control a viable, healthy herd of wild horses” (p. 41). The use of this phrase in relation to any resource does not preclude disposal of public lands upon which these resources occur or rely. The operative objective of these decisions is toward the resource as a whole. If disposal of public lands containing a specific resource will not reduce BLM’s ability to protect, maintain, or improve, or if through the exchange, private lands would be acquired that would advance the resource objectives, then the exchange would be consistent with RMP objectives.

The concept of **blocking public land into larger parcels** (consolidating landownership), and the relative size of those parcels, is an ill-defined concept in the RMP. Blocking public land into larger parcels, absent any other resource benefits, is not necessarily in the public interest. In addition, there is no minimum block size that would automatically preclude consideration of an exchange proposal. Certainly, the larger the block, the more efficient and effective future land management would be. However, highly valued, narrowly distributed resources could make consolidation of a relatively few acres a reasonable land exchange proposal. This principle can apply to a block of federal land with valuable or unique resources in an area that is dominated by private land, or it can apply to eliminating small parcels of private land in an area dominated by federal lands. Blocking land can also refer to creating large blocks of federal and private land in areas of checkerboard landownership. Consolidation of land ownership in and of itself, however, is not sufficient justification for pursuing an exchange.

The issue of exchanging **like-for-like resources and lands within the immediate vicinity of each other** also influences the feasibility of an exchange proposal. If the resources on proposed exchange parcels were similar, there would be less disagreement over the relative value of these lands. However, parcels are seldom alike. Thus, BLM must consider giving up one type of resource to acquire another. Such disparity does not, in and of itself, preclude consideration of an exchange proposal. Experience has shown that the more dissimilar the lands, the more difficult the proposal will be to complete. As with resources, if parcels were adjacent, or at the least, near each other, the proposal would be less complicated than if the parcels were widely separated.

Land Exchange Criteria

The final part of this document clarifies the possibilities for land exchanges within the context of RMP decisions. If land exchanges involved identical lands and resources of equal value, and met the differing objectives of private landowners and federal agencies, there would be little controversy about these

proposals. In reality, this is never the case. Land exchanges often include a diverse mix of resources on often-dissimilar lands, located at some distance from each other. The larger the exchange proposal is, the greater, or more complex, the dissimilarities.

For each of the resource categories below, a range of attributes, from more to less acceptable, is given in the context of land exchange proposals. Some attributes may preclude disposal, and others will have little or no influence in evaluating a proposal. A point ranking system will not be used because the variable nature of these issues is best addressed through a qualitative, narrative format.

The purpose of this criteria is to: (1) present BLM land exchange policy; (2) examine the BLM land use planning process in relation to decisions in the Great Divide Resource Area Record of Decision/Approved RMP; and (3) clarify and explain the Great Divide RMP decisions as they relate to land exchange proposals, to assist in determining whether a proposed exchange is consistent with BLM policy and the RMP decisions.

This criteria will help land exchange proponents formulate realistic exchange proposals, provide BLM staff and management with clear and consistent guidelines against which to evaluate proposals, and better inform the public about the BLM land exchange program.

General Criteria

- All land exchanges will be in conformance with national BLM Policy in BLM Manual 2200 and Wyoming BLM Policy in WY-IM-96-067, summarized above.
- BLM must meet the requirements of BLM Manual H-2104, “Preacquisition Environmental Site Assessment” to “determine if recognized environmental conditions are present which would pose an imminent threat or long term risk to human health and/or the environment.”
- The public lands identified as being possibly suitable for disposal within the RMP meet FLPMA criteria and are suitable for disposal consideration.
- Land exchanges should improve BLM’s public land and resource management capabilities. Protecting resources and/or implementing management actions on acquired public lands or disposing of public lands that are difficult or expensive to manage and which contain little public value can achieve this goal.
- Land exchanges should create more logical and efficient land ownership patterns. This can be accomplished by making boundaries less irregular, matching legal and physical access or boundary areas, and reducing the number of ownership parcels, either federal or nonfederal, in an area. Every effort will be made to preserve or enhance public access through the exchange process.
- Conservation easements or other protective covenants are occasionally used to provide for continued protection of valuable public resources when the land itself is transferred out of federal ownership.

Areas of Critical Environmental Concern

Areas of Critical Environmental Concern (ACEC) are “areas within the public lands where special management attention is required . . . to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards” [FLPMA, Sec. 103(a)]. Neither FLPMA nor the Great Divide RMP

decisions concerning the four designated ACECs in the RMP planning area preclude disposal of public lands within an ACEC.

The attribute scale for land exchanges involving ACECs is—

- Nonfederal land within an ACEC for public land outside the ACEC boundary.
- Nonfederal land for public land within an ACEC (land ownership consolidation), provided the integrity and management objectives of the ACEC could be maintained, either by the new land ownership alignment or by a conservation easement on the disposed public land.
- A proposal that results in a better-defined ACEC boundary, provided the integrity and management objectives of the ACEC are not impaired.
- Public land within an ACEC for nonfederal land outside an ACEC, provided the management objectives of the ACEC are preserved on the disposed public land.

In addition to the general ACEC attribute scale, any land exchange proposal that would improve public access in the Jep Canyon or Shamrock Hills ACECs would improve a land exchange proposal's ranking.

Cultural Resources

- Public lands containing cultural resources that are neither eligible for nor enrolled on the National Register of Historic Places (Register) or historic trail segments that do not contribute to eligibility for or enrollment on the Register will be considered for exchange.
- Public lands that contain properties that are eligible for or enrolled on the Register will *not* be considered for exchange unless impacts to the cultural resources are mitigated by data recovery, documentation, or other acceptable procedure, or the cultural resources are reserved to the United States in the patent.
- Public lands that contain contributing historic trail segments will *not* be considered for exchange unless the contributing trail segments plus a quarter-mile buffer on both sides of the trail are reserved to the United States in the patent.
- Consolidation of National Register-eligible historic or contributing trail segments into federal ownership will be considered, even if other isolated trail segments on public land are exchanged, provided public access to the trail in general would be enhanced and/or endangered segments were brought into federal ownership.
- Exchange of public lands containing cultural resources on or eligible for the Register will be considered if the nonfederal lands to be acquired hold some other resource of exceptional public value (e.g., endangered species critical habitat).
- A land exchange involving federal and nonfederal cultural resources of approximately equal amount and value will be considered. (It would be difficult to achieve this criterion because identification of like resources would require an inventory of all acquired parcels.)

National Natural Landmarks

- Nonfederal land within a National Natural Landmark (NNL) will be considered for exchange for public land outside of the NNL boundary.

- Public land for nonfederal land within an NNL (land ownership consolidation) will be considered for exchange, provided the integrity and management objectives of the NNL could be maintained, either by the new land ownership alignment or by a conservation easement on the disposed public land.
- A proposal that results in a better-defined NNL boundary will be considered for exchange, provided the integrity and management objectives of the NNL would not be impaired.
- Public land in an NNL will be considered for exchange for nonfederal land outside an NNL, provided the management objectives of the NNL would be preserved on the disposed public land by a conservation easement.
- Public land within an NNL will be considered for exchange for nonfederal land outside the NNL, provided the integrity and management objectives of the NNL could be maintained.

Paleontological Resources

- Public lands that contain low-value paleontological resources will be considered for exchange.
- Public lands that contain paleontological resources of high scientific importance (usually vertebrate fossils) will *not* be considered for exchange unless the paleontological resource impacts are mitigated by data recovery or documentation or the paleontological resources are reserved to the United States in a patent.
- A land exchange involving public lands containing high-value paleontological resources for nonfederal lands that hold some other resource of exceptional public value (e.g., endangered species critical habitat) will have a low priority.
- A land exchange involving federal and nonfederal paleontological resources of approximately equal amount and value would also be low priority. (It would be difficult to achieve this criterion because paleontological resources are inventoried after the exchange parcels are identified, and many are not discovered by a surface examination.)

Forest Resources

- The presence of merchantable timber, in and of itself, would not preclude disposal of public lands. Timber values must be considered along with other land values to meet equal-value exchange requirements.
- Public land adjacent to and having a common boundary with a national forest, or when an existing access road exists, will have an extremely low priority for exchange.

Existing Lands Authorizations and Designations

- Existing rights-of-way (ROW) grants will not prevent those public lands containing ROWs from being disposed of. The patent will require the preservation of the existing authorization until the end of the grant.
- Public lands containing classifications or that are withdrawn from the general land laws (e.g., R&PP Act, Desert Land Act, Power Site Classification, Public Water Reserve withdrawals, Stock Driveway withdrawals, or various mineral withdrawals) will have a low priority for exchange. However, many of the classification and withdrawal designations are out of date and have not

been administratively reviewed and adjusted. If such a designation is present on a selected public land parcel, it should be evaluated according to its specific circumstances.

Livestock Grazing Management and Vegetation

- Isolated parcels of public land within predominately private land grazing allotments will be considered for exchange for nonfederal land outside the grazing allotment. The elimination of isolated parcels of public land from grazing allotments, thereby eliminating the need for continuation of a BLM-administered grazing allotment, would reduce the administrative workload of the BLM and would therefore be a benefit of a land exchange.
- The gain or loss of a particular vegetation type or amount of forage (animal unit months) will not preclude consideration of public lands for disposal.

Mineral Resources

Mineral values will be considered, along with surface values, in determining the total exchange value of land parcels. The extent of mineral deposits is seldom known with a high degree of accuracy. This uncertainty can introduce an element of controversy into an exchange proposal.

- Land exchanges that propose to exchange both surface and mineral estate are preferable to those that do not, provided the total values are equal.
- Proposals that eliminate a mineral and land surface split estate ownership situation by creating a united mineral and land surface ownership are also preferable.
- Lands containing mining claims filed under the General Mining Law may be considered for exchange. Prior to exchange, claims would have to be relinquished by the claimant or a validity exam completed.

Recreation Sites and Special Recreation Management Areas (SRMA)

Continental Divide SRMA and North Platte River SRMA

- Preferred land exchanges would provide access to and along the Continental Divide National Scenic Trail SRMA and the North Platte River SRMA while disposing of public land outside of these areas.
- Exchange of public land along or within either SRMA would require that access be preserved through an easement or reservation.

Shirley Mountain Caves SRMA

- Nonfederal land within the SRMA will be considered for exchange for public land outside but not adjacent to the SRMA boundary.
- Nonfederal land within the SRMA will be considered for exchange for public land outside and adjacent to the SRMA boundary.
- Public land will be considered for exchange for nonfederal land within the SRMA (land ownership consolidation), provided the integrity and management objectives of the SRMA could be maintained, either by the new land ownership alignment or by a conservation easement on the disposed public land.

- Public land within the SRMA will be considered for exchange for nonfederal land outside, but adjacent to the SRMA, provided the integrity and management objectives of the SRMA could be maintained.
- Any exchange proposal will be considered that would result in a better-defined SRMA boundary, provided the integrity and management objectives of the SRMA would not be impaired.
- An exchange of public land in the SRMA for nonfederal land outside the SRMA, even provided the management objectives of the SRMA would be preserved on the disposed public land by a conservation easement, would be a low priority.

Other Recreation Sites

- Developed recreation sites on public lands (and appropriate buffers around them) will be considered low priority for exchange.

Soil Resources

This section includes consideration of soil productivity, erosion potential, and geologic hazards, such as subsidence and landslide areas.

- Acquisition nonfederal land containing native, undisturbed vegetation for disturbed or unreclaimed public land will be considered.
- Acquisition of nonfederal land that contains geologic hazards known to pose an immediate threat to human health or safety would be of low priority. Special circumstances may arise that would make acquisition of a particular geologic hazard advantageous to BLM (e.g., extremely precipitous canyon/cliff country that is very hazardous to human health and safety but is excellent raptor habitat).
- Acquisition of nonfederal land with an ongoing accelerated erosional process, requiring immediate expenditure of funds to correct, for public land would be a low priority (unless BLM was cooperatively working with other agencies to meet national or regional water quality objectives).

Visual Resource Management (VRM)

- VRM classification will not preclude consideration of public lands for exchange.
- BLM exchange of public land in Class I or II VRM areas will be a low priority, unless in special circumstances, a conservation easement protects the visual integrity of the area.

Water, Wetlands, and Riparian Areas

- Proposals for exchange will be considered that acquire more wetlands and/or riparian areas than are disposed of.
- Proposals that exchange essentially the same amount, type, and quality of wetlands or riparian areas will be considered.
- Proposals for exchange will be considered that dispose of more wetlands and/or riparian areas than are acquired by BLM, provided the wetlands/riparian areas are protected by a conservation easement.

- Lowest preference for consideration is given to proposals that dispose of more wetlands and/or riparian areas than are acquired by BLM, in order to acquire some other valuable resource or lands, with no conservation easement protection of the disposed public lands.

Wild Horses

- Proposals for exchange will be considered that acquire more nonfederal land within wild horse herd management areas than are disposed of.
- Proposals that exchange essentially the same amount, type, and quality of wild horse herd management area will be considered.
- Proposals for exchange will be considered that dispose of more wild horse herd management area lands than are acquired by BLM, or that create isolated parcels of nonfederal land within wild horse herd management areas in order to acquire some other valuable resource or lands.

Wildlife, Threatened and Endangered Species, and Sensitive Plants Habitat

Crucial Winter Ranges for Big Game

Consideration of crucial winter ranges (CWR) in land exchanges must include evaluation of species type, different range areas, quality of the range, herd population levels and health, and the results of consultation with the Wyoming Game and Fish Department (WGFD). Generally, exchange proposals involving CWR for multiple big game species will have priority over proposals involving CWR for only one big game species. Each proposal, however, will be considered on its own merits. Exchange proposals may involve CWR for pronghorn antelope, mule deer, elk, moose, big horn sheep and/or white-tailed deer. Examples of proposals that would be considered (but not listed in any priority order) are—

- Proposals that acquire more CWR than is transferred to nonfederal ownership for one or more big game species in the same CWR
- Proposals in which poor-quality public land CWR is exchanged for better-quality CWR for one or more big game species in the same CWR
- Proposals that exchange nearly equal acreages of CWR, for the same or multiple species, in the same CWR
- Proposals in which CWR is transferred from federal ownership to nonfederal ownership, but the former federal lands (and the habitat) are preserved by a conservation easement.

Strutting/Dancing Grounds and Nesting Habitats

Generally, proposals involving sage-grouse or sharp-tailed grouse strutting/dancing grounds and nesting habitats would be evaluated on the basis of the quality of the habitat, the local population levels/histories, and the results of consultation with the WGFD. Examples of proposal that would be considered (but not listed in any priority order) are—

- Proposals that acquire more of these habitats than are transferred into nonfederal ownership
- Proposals that result in exchange of approximately equal mounts of these types of habitat
- Proposals that result in a net federal reduction in acres of these types of habitats, but the former public lands (and the habitat values) are preserved by a conservation easement

- Proposals that result in more acres of these habitats transferred into nonfederal ownership than are acquired.

Threatened, Endangered, Sensitive Species

Proposals involving the acquisition of Threatened and Endangered (T&E) or otherwise sensitive plant or animal species habitat would generally be considered high-priority actions. Proposals could involve black-footed ferret or mountain plover habitat (prairie dog colonies), Ute-ladies' tresses habitat, or habitat associated with other special status species. Generally proposals would be evaluated on the basis of the quality of the habitat, the acreage of habitat involved, and the results of consultation with both the U.S. Fish and Wildlife Service and the WGFD. Example proposals would be similar to those described above for big game species and for sage-grouse and sharp-tailed grouse.

Wilderness Study Areas

- High priority is given to land exchange proposals in which nonfederal holdings within Wilderness Study Area (WSA) boundaries are acquired for federal ownership.

Generally, lands under wilderness review may not be disposed of through any means, including exchanges.

Attachment A

BLM Manual 2200, Exchange of Public Lands

.06 Policies

A. General. The following principles set forth general BLM policy for the exchange of public lands or interest therein. They represent a commitment by BLM to implement the land exchange policies of the FLPMA, consistent with BLM's other statutory obligations.

1. Disposal of public lands by exchange shall be considered as serving the national interest within the policy context of Section 102(a)(1) of FLPMA.
2. The BLM shall strive to process mutually benefiting, public interest, land exchanges in a timely and efficient manner through continually maintaining and streamlining its land use planning, appraisal, and exchange processes.
3. Exchanges to acquire in holdings in Federal conservation areas are in the public interest and will aid in the reduction of the national debt through reducing expenditures of appropriated funds in the acquisition of lands or interest in lands needed for Federal conservation purposes.
4. Acquisitions, through exchange rather than purchase, of lands or interests in lands required for Federal resource management or protection program will retard the present expansion of Federal real estate holdings and help assure the integrity of State and local tax bases.
5. Comments from affected States, local governments, and the general public shall be sought and considered before completion of each exchange.
6. Exchanges may be utilized, when economically advantageous, to consolidate attractive parcels for sale.
7. Patent and deed reservations and conditions shall be kept to the absolute minimum necessary to complete the transaction. Rights of third parties holding rights-of-way and other interests in the exchanged lands shall be protected.
8. The generally preferred rule is for both surface and subsurface (mineral) estates to be traded in an exchange. However, due to third party encumbrances, or difficulties in the valuation process, it may be preferable to complete certain exchanges with reservations. Such exceptions to the generally preferred rule are to be made on a case-by-case basis.
9. Exchanges shall be utilized to consolidate or unite the surface and subsurface estates for both the Federal Government and nonfederal owners in split or mixed estate situations.
10. Exchanges may be utilized to effect ownership and management area boundary changes or adjustments and to form more logical and efficient land and resource management areas for both the Federal Government and nonfederal owners.
11. In application of the determinations of public interest required under Section 206(a) of FLPMA, the BLM shall give the broadest possible consideration of public needs when evaluating exchange proposals.

12. Whenever the law permits, expenses incurred by BLM on exchange sections for the benefit of other Federal agencies shall be recovered from such benefiting agency. The BLM shall not attempt to recover nominal costs.

13. Mining claims of record shall be contested only for the purpose of determining the validity of such claims in those instances in which an exchange has been determined to be in the public interest. Expenditures of limited Federal appropriations will not be made simply to clear the land of mining claims of one party to make the land available for another party.

14. When an exchange involves the cancellation of a grazing permit or lease, the compensation for range improvements and two-year notification requirements of Sections 402(g) of the FLPMA and 43 CFR 4110 shall be met.